

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201410813
Issue No.: 1003, 2018, 3019
Case No.: [REDACTED]
Hearing Date: December 5, 2013
County: Calhoun

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 5, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Case Manager) and [REDACTED] (Lead Worker from the Office of Child Support (OCS)).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) program cases due to her failure to cooperate in establishing paternity or securing child support?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was active for FAP, FIP and MA.
2. Claimant had a FAP group size of 6 with a monthly allotment of [REDACTED].
3. At all relevant times, Claimant resided at: "[REDACTED], [REDACTED]."
4. On July 27, 2013, the OCS mailed Claimant 2 (two) First Customer Contact Letters (OCS0015), which requested that Claimant provide information about the non-custodial parent for her three children. These two letters were assigned case

numbers 91302067 and 913020368, respectively. Both letters were mailed to Claimant at: " [REDACTED] ."

5. On August 31, 2013, the OCS mailed Claimant 2 (two) Final Customer Contact Letters (OCS0025), which again requested that Claimant provide information about the non-custodial parent for her three children. These letters were also mailed to Claimant at: " [REDACTED] ."
6. Claimant did not receive the letters as they were mailed to an incorrect address.
7. On September 26, 2013, the OCS mailed Claimant 2 (two) Noncooperation Notices (OCS1252A) which advised Claimant that her failure to respond to the two contact letters dated July 27, 2013 and August 31, 2013 by their respective due dates of August 22, 2013 and September 18, 2013 would result in a reduction of her benefits or case closure unless she had a good cause reason. These letters were mailed to Claimant at: " [REDACTED] [REDACTED] ."
8. On September 26, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which, effective November 1, 2011, closed her FIP case and reduced her monthly FAP benefits to [REDACTED]¹ due to her failure to cooperate in establishing paternity or securing child support. This was mailed to Claimant at her correct address.
9. On October 4, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which indicated: (1) Claimant's FIP case, which had a group size of 6, was continued at [REDACTED] per month for the period of September 1, 2013 through October 31, 2013; (2) Claimant's FAP case, which had a group size of 6, was continued for September 1, 2013 through October 31, 2013 at [REDACTED] and for November 1, 2013 through June 30, 2014 was now a group size of 5 and was decreased to [REDACTED]; and (3) Claimant was removed as a group member for her MA (Low Income Families or "LIF") case effective November 1, 2013. This was also mailed to Claimant's correct address.
10. On October 30, 2013, Claimant requested a hearing to challenge the Department's decision to close her FAP, FIP and MA cases due to her alleged failure to cooperate with establishing paternity or securing child support.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

¹Because the Department removed Claimant as a group member, the household group size was reduced from 6 to 5.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

For the FAP, FIP and MA programs, the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1 (10-1-2013).

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255, p. 2.

The support specialist determines cooperation for required support actions. BEM 255, p. 10. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. BEM 255, p. 10. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255, p. 10.

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. BEM 255, p. 11. The disqualification is not imposed if any of the following occur on or before the timely hearing request date: (1) OCS records the comply date; (2) the case closes for another reason; (3) the non-cooperative client leaves the group; (4) support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group); (5) client cooperates with the requirement to return assigned support payments to DHS and the support is certified; (6) client requests administrative hearing. BEM 255, p. 11.

In this case, the OCS imposed a sanction on Claimant's case based on the reported non-cooperation with establishing paternity. As a result of the OCS sanction, the Department reduced Claimant's FAP and closed her FIP and MA cases. Claimant testified credibly that the first correspondence she received were the 2 noncooperation notices mailed on September 26, 2013. The Department and OCS representatives who attended the hearing did not dispute this.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The substantial, material and competent evidence in this record shows that the OCS mailed the July 27, 2013 and August 31, 2013 contact letters to an incorrect address. Because the OCS did not properly mail the contact letters to Claimant (and she, in fact, did not receive them), she cannot be found to be in noncompliance. There was no evidence in this case that Claimant was noncompliant with paternity because she failed to respond to the contact letters that were never sent to her. As such, the Department's determination cannot be upheld.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it sanctioned Claimant's FAP, MA and FIP cases for failing to cooperate with paternity.

DECISION AND ORDER

Accordingly, the Department's decision to close and/or reduce Claimant's FIP, FAP and MA cases are **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate removal of the OCS sanction from Bridges, but only as it relates to the failure to respond to the contact letters dated July 27, 2013 and August 31, 2013.
2. The Department shall reinstate Claimant's FAP, FIP, and MA cases back to the dates of closure.
3. To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FIP, FAP and MA benefits that she is entitled to receive.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 6, 2013

Date Mailed: December 9, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201410813/CAP

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

